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16 AUG 1971

MEMORANDUM FOR THE RECORD

SUBJECT : Bills Introduced to Assure Classified Information
is Disseminated to Congress

REFERENCE : Memorandum for the Record of 23 July 1971;
Subject: H.R. 9853

1. Since Representatives Hebert and Arends introduced H.R. 9853 to establish a Commission on Information Protection and the National Security, several other bills have been introduced calling for congressional reviews of classification and declassification procedures and for other measures to assure the dissemination of classified information to Congress. At this time, only one bill, H.R. 10102, introduced by Representative Gubser, appears to be a conscious effort to allow dissemination to Congress within national security considerations, though this judgment rests with Congress.

H.R. 10102 - A bill "To Establish a Joint Committee on Classified Information" by Representative Gubser (referred to Committee on Rules).

a. Purpose

Establishes a Joint Committee which would determine whether information classified by the Executive or otherwise restricted can be appropriately made available to the Congress without damaging the national interest.

b. Scope

The bill does not express any limitation as to the degree of access to information within the Executive either by category or classification. Heads of departments and agencies are required to furnish information upon request.

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c. Membership

Twelve voting members as follows:

- (1) The chairman and ranking minority member of the Senate Committee on Armed Services
- (2) The chairman and ranking minority member of the House Committee on Armed Services
- (3) The chairman and ranking minority member of the Senate Committee on Foreign Relations
- (4) The chairman and ranking minority member of the House Committee on Foreign Affairs
- (5) The majority leader and minority leader of the Senate
- (6) The Speaker of the House
- (7) The minority leader of the House

Two non-voting members as follows:

- (1) Secretary of State or his designee
- (2) Secretary of Defense or his designee

d. Powers

The Joint Committee would have the authority to take testimony, administer oaths, and issue subpoenas and may secure information from any department or agency as necessary.

e. Reports

At least one report of findings and recommendations is required during each session of the Congress.

f. Procedures

Whenever ten or more Senators or 43 or more Representatives desire access to any information within the Executive, the Joint Committee would be charged with the responsibility of requesting the information from the Executive. The Joint Committee would then decide, with at least eight members concurring, if it is in the national interest to disseminate the information to the Congress. If disseminated, the information

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is retained in the Joint Committee. If not, it is returned to the Executive department or agency. The Joint Committee would determine its own procedures for access to and protection of the information.

2. Attached is a summary of other bills concerning dissemination to Congress. The bills as written are without limitation and apparently would include intelligence information, including sensitive systems of compartmentation. The most apparent problem is that the Congress would be authorized to unilaterally determine if classified information should be disseminated to the Congress or declassified. Interested Agency offices may submit their views to assist in formulation of an Agency position.



STATINTL

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Att

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ATTACHMENT

Bills Establishing Procedures for Dissemination by Congress
of Classified Information

H.J. Res. 794 - A Joint Resolution "Creating a Joint Committee on Classified Information" by Representative Addabbo (referred to Committee on Rules).

Establishes a Joint Committee drawn from the chairmen and ranking minority members of House and Senate Armed Services Committees and Defense Appropriations Subcommittees of Appropriations Committees; chairmen and minority members of Senate Foreign Relations and House Foreign Affairs Committees; and three Senators and three Representatives. The Joint Committee is to make continuing investigations and studies of the classification procedures and of suspected classification contrary to public welfare. If the classification of information is considered contrary to the public welfare, the Joint Committee may initiate action, including the public disclosure of the information if deemed in the public interest.

H. Con Res. 381 - A Concurrent Resolution "To establish a Select Joint Committee to be known as the Committee on Freedom of Information" by Representatives Harrington and Mazzoli (referred to Committee on Rules).

Establishes a Joint Committee, the "Committee on Freedom of Information," comprised of ten members from the House and ten members from the Senate. The Committees on Armed Services, Appropriations, Foreign Relations, Judiciary, and Government Operations are represented. The Joint Committee is to conduct a full investigation of classification and dissemination procedures to assure a necessary flow of information for the responsible exercise of constitutional rights by Members of Congress. The Joint Committee is given all of the normal committee powers and is to report its recommendations to the Congress no later than 60 days after adoption.

S. 1125 (Amended) - A bill "To amend Title 5, U.S. Code with regard to the exercise of executive privilege" by Senator Fulbright (referred to the Committee on the Judiciary).

The bill adds a section to Title 5, "Government Organization and Employees," providing that any employee of the Executive called upon to testify or produce documents before any congressional committee may not

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exercise executive privilege without a written statement signed personally by the President. If any information is refused and a statement is not provided within 60 days, the General Accounting Office is to cease making any further funds available to the agency involved until it is received.

H. J. Res. 779 - A Resolution "To establish the National Commission on Executive Secrecy" by Representative Pettis (referred to Committee on the Judiciary).

Establishes a National Commission comprised of members from House and Senate and private life to review all laws and regulations on classification to assure consistency with constitutional freedoms and proper performance of legislative duties. The Commission is to consider the feasibility of establishing an independent agency to assure proper disclosure of information. It is also to review the Pentagon papers and determine which material may be publicly disclosed. A report with recommendations is to be submitted to the Congress by 1 February 1972. The Commission is to have all powers required and may call upon Government agencies for any information required.

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